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*Attorneys for Defendants Vitamin Shoppe Industries, Inc.***UNITED STATES DISTRICT COURT****DISTRICT OF OREGON**

LEE WALTERS, MD, an Oregon resident,

Plaintiffs,

v.

VITAMIN SHOPPE INDUSTRIES, INC., a
Delaware corporation,

Defendants.

Case No.: 3:14-cv-01173-PK

**DECLARATION OF CHAD M.
COLTON IN SUPPORT OF
DEFENDANT VITAMIN
SHOPPE INDUSTRIES, INC.'S
RESPONSE TO PLAINTIFF'S
SUPPLEMENTAL BRIEF****DECLARATION OF CHAD M. COLTON**

DECLARATION OF CHAD M. COLTON

I, Chad M. Colton, declare as follows:

1. I am an attorney duly licensed to practice in the State of Oregon and before this Court, and am a partner at the law firm of Markowitz Herbold PC, counsel for defendant Vitamin Shoppe Industries, Inc. (“VSI”) in the above-captioned matter. I make this declaration based on my own personal knowledge and, if called upon, could and would testify thereto.

2. I submit this declaration in support of VSI’s contemporaneously-filed Response to Plaintiff’s Supplemental Brief, which was filed February 19, 2015 (Dkt. No. 36).

3. Attached hereto as Exhibit 1 is a true and correct copy of the FDA’s Dietary Supplement Labeling Guide: Chapter III. Net Quantity of Contents.

4. Attached hereto as Exhibit 2 is a true and correct copy of the FDA’s Dietary Supplement Labeling Guide: Chapter IV. Nutritional Labeling.

5. Attached hereto as Exhibit 3 is a true and correct copy of the FDA’s Warning Letter to Kasa’s Food Distributing Co., dated July 5, 2012.

6. Attached hereto as Exhibit 4 is a true and correct copy of the FDA’s Warning Letter to Health Breakthrough International, LLC, dated December 12, 2013.

7. Attached hereto as Exhibit 5 is a true and correct copy of the FDA’s Warning Letter to Capt’n Chucky’s Crab Cake Company, LLC, dated July 21, 2011.

8. Attached hereto as Exhibit 6 is a true and correct copy of the FDA’s Warning Letter to Island Desserts LLC, dated October 5, 2011.

9. Attached hereto as Exhibit 7 is a true and correct copy of the FDA’s Warning Letter to Chung’s and Son Company, dated March 19, 2012.

10. Attached hereto as Exhibit 8 is a true and correct copy of the FDA’s Warning Letter to Capitol Foods, Inc., dated May 17, 2012.

11. Attached hereto as Exhibit 9 is a true and correct copy of Defendant ConAgra Foods, Inc.'s Notice of Motion and Motion to Dismiss Amended Class Action Complaint; Memorandum of Points and Authorities in Support thereof, filed as docket entry number 84 in the case titled *In re ConAgra Foods, Inc.*, Case No.: 2:11-CV-05379-MMM (AGR), before the United States District Court for Central District of California, Western Division (“*In re ConAgra*”).

12. Attached hereto as Exhibit 10 is a true and correct copy of Plaintiffs' Opposition to Defendant's Motion to Dismiss, filed as docket entry number 95 in *In re ConAgra*.

13. Attached hereto as Exhibit 11 is a true and correct copy of Reply of Defendant ConAgra Foods, Inc. in Support of Motion to Dismiss Consolidated Amended Class Action Complaint, filed as docket entry number 96 in *In re ConAgra*.

I declare under penalty of perjury, and pursuant to the provisions of 28 U.S.C. § 1746 that the foregoing is true and correct.

EXECUTED this 25th day of February, 2015.

MARKOWITZ HERBOLD PC

By: /s/ Chad M. Colton

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